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FEDERAL COMMUNICATIONS COMMISSION  
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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of  
Implementation of Section 26  
of the Cable Television  
Consumer Protection and  
Competition Act of 1992  
Inquiry into Sports  
Programming Migration

PP Docket No. 93-21

COMMENTS OF THE NEW YORK CITY  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

I. INTRODUCTION

On February 3, 1993, the Federal Communications Commission ("Commission") commenced this inquiry to study the migration of sports programming from over-the-air broadcast television to cable programming networks and pay-per-view services.<sup>1/</sup> As mandated by Congress in the Cable Television Consumer Protection and Competition Act of 1992, the Commission is to investigate and analyze trends in the migration of sports programming and, in a series of reports to Congress, present the results of its

1/ Implementation of Section 26 of the Cable Television Consumer Protection and Competition Act of 1992 -- Inquiry into Sports Programming Migration, adopted February 3, 1993 (FCC 93-77)(hereinafter "Notice of Inquiry").

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investigation and propose "such legislative or regulatory recommendations as the Commission considers appropriate."<sup>2/</sup>

Sports migration, as Congress noted, "has become an increasingly important issue in recent years."<sup>3/</sup> In these comments, the City of New York, through the Department of Telecommunications and Energy, examines the trend of sports programming migration and its impact on the New York City sports market, and responds to a core issue in this inquiry -- the impact of continued sports migration on consumers who do not subscribe to cable. The City of New York shares with Congress the concern that the migration of sports programming away from free over-the-air television will reduce consumer access to such programming.<sup>4/</sup>

As discussed below, the City proposes that the Commission establish a Sports Programming Advisory Committee to analyze the causes and consequences of migration trends and to formulate recommendations. Since, as the City believes, government-mandated requirements should be adopted only as a last resort, an advisory committee could play a critical role in proposing solutions -- even developing voluntary standards -- to avert the adverse consequences of sports programming migration.

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2/ Pub. L. No. 102-385, 102 Stat. 1460 (1992)(hereinafter "1992 Cable Act"). Section 26 of the 1992 Cable Act requires the Commission to submit an interim report to Congress by July 1, 1993 and its final report to Congress by July 1, 1994.

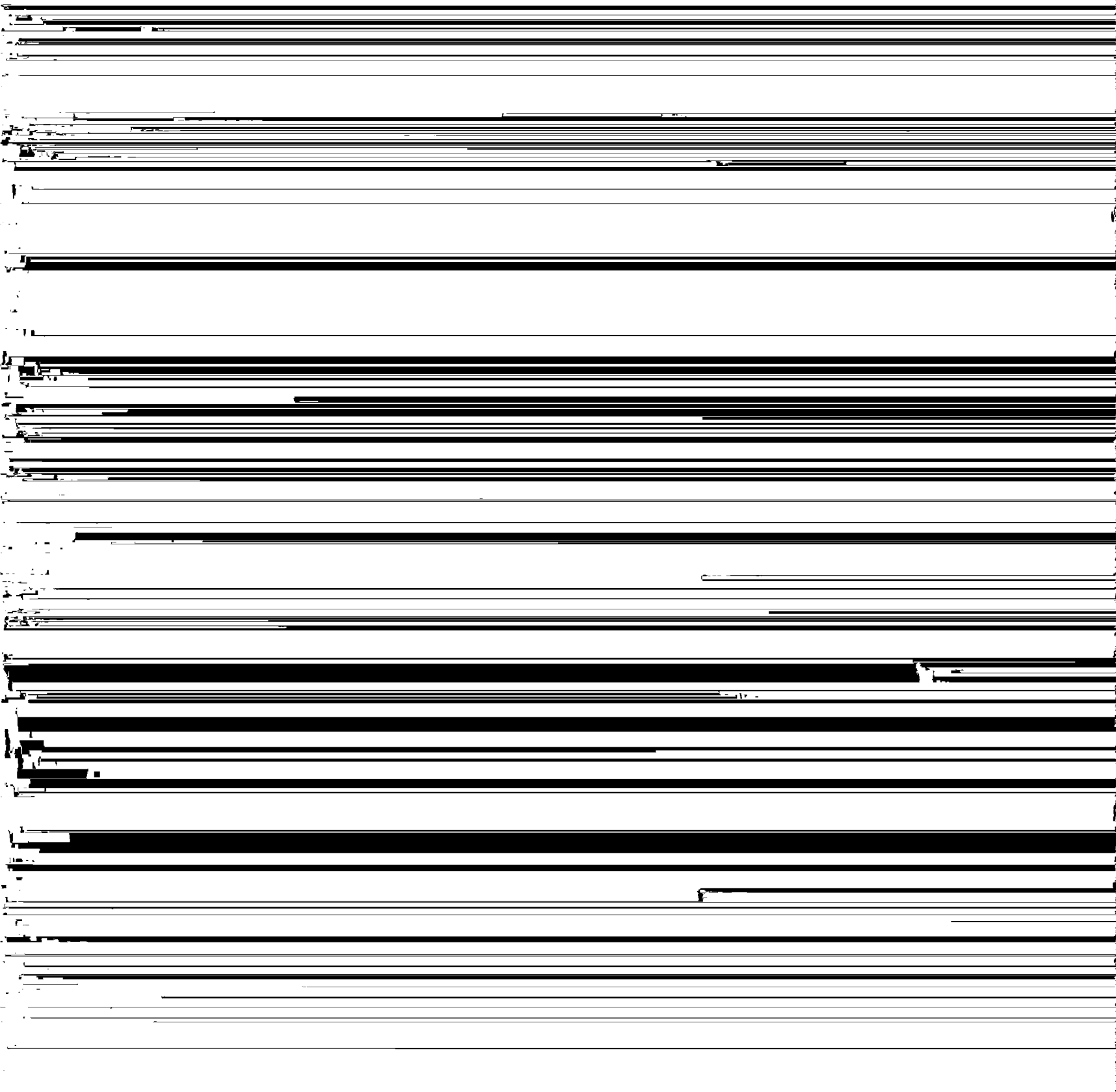
3/ H.R. Rep. No. 628, 102d Cong., 2d Sess. (1992)(hereinafter "House Report") at 125.

4/ See House Report at 125.

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II. DISCUSSION

Congress correctly identified sports migration as a matter of national concern. Baseball, hockey, football and basketball



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Many regular season games of the New York Knicks and the New York Rangers are shown exclusively on the Madison Square Gardern Network ("MSG") -- a cable programming network, and have been since the network's inception in 1969. Both teams are owned by Paramount Communications, which also owns MSG. As the following tables demonstrate, the number of games carried on MSG increased dramatically for both teams following the 1988-89 season.<sup>7/</sup> Today, the overwhelming majority of games are shown on MSG, and very few -- only two in the case of the Knicks in the 1991-92 season -- can be watched on over-the-air broadcast television.<sup>8/</sup>

New York Knicks Broadcasts

<u>Year</u>	<u>TV</u>	<u>Cable</u>
81-86	Not Available	
86-87	27	53
87-88	25	55
88-89	27	53
89-90	5	75
90-91	3	77
91-92	2	78

New York Ranger Broadcasts

<u>Year</u>	<u>TV</u>	<u>Cable</u>
81-86	Not Available	
86-87	29	53
87-88	32	50
88-89	28	54
89-90	8	74
90-91	5	77
91-92	7	75

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- 7/ The New York Knicks, New York Rangers and New York Yankees provided the data presented in the tables. Additional data on baseball were obtained from "Special Report - Baseball '93," Broadcasting & Cable, (March 15, 1993), pp. 39-42.
- 8/ In Time Warner's New York City systems, consumers must subscribe, at a minimum, to "standard" service to obtain MSG. Monthly rates for standard service range from \$21.95 to \$23.95. In Cablevision's New York City systems, MSG is available as a premium channel at \$6 a month, or as part of several service packages starting at \$25.95 a month.

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The Yankees, unlike the Knicks and Rangers, are entirely independent of any broadcast or cable interests. But, there also has been a dramatic shift in the location of Yankees telecasts. The number of games broadcast on over-the-air television has fallen from 100 in 1981 to a low of 40 games in 1987. The number of games on broadcast television in 1993 will be only 50, as compared to 108 on the cable network MSG.

New York Yankees Broadcasts

<u>Year</u>	<u>TV</u>	<u>Cable</u>
1981	100	40
1982	100	40
1983	100	40
1984	100	40
1985	100	40
1986	100	40
1987	40	100
1988	40	100
1989	75	75
1990	75	75
1991	50	100
1992	50	108
1993	50	108

The significant migration of games in the 1987 season occurred after the Yankees signed a twelve year, \$486 million deal with MSG for the team's television rights.

Similarly, many of the New York Mets regular season games are available only on cable. During the 1993 baseball season, 75 regular season games will be televised over WWOR-TV, and 75 games will be carried by SportsChannel New York -- a regional cable network. The Mets are in the seventh year of a 25 year contract with SportsChannel New York.<sup>9/</sup>

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9/ See "Special Report - Baseball '93," Broadcasting & Cable, (March 15, 1993), pp. 39-42. In all New York City cable systems, SportsChannel is available only as a premium channel. Charges for the channel vary depending on the system and programming mix selected by the subscriber (up to \$15.00 a month plus the cost of basic service).

The threat of sports programming migration is real. If New York is the norm -- and we have no reason to believe it is not -- it is clear that there has been an increase in the amount of sports programming that has migrated from over-the-air television to subscription media such as MSG and other cable programming networks in recent years. The trend appears to be accelerating.

And, the consequences of this migration are clear. Consumers who do not subscribe to cable, either because they do not have access to the service, or cannot afford or choose not to subscribe, may be "disenfranchised" from local sports. The Commission notes that roughly 95% of television households in the country have access to cable television. However, a significant percentage of consumers -- over one million households in New York City -- do not currently subscribe to cable. Many of these consumers may not be able to afford cable. Access to sports programming carried on MSG and SportsChannel will cost a consumer in New York City as much as \$37.95 a month or \$455.40 a year -- an expense many low income households cannot afford. We urge the Commission not to overlook these consumers. They should not be shut out of local sports -- a national pastime -- because they cannot afford premium charges for sports programming.

The City of New York does not recommend the adoption of any specific regulatory or legislative measures at this time. We believe that government-mandated requirements should be adopted only as a last resort.

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an integral part of community life that it is important to

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The Committee would assist the Commission in preparing the Commission's recommendations and its final report to Congress, which is due in July 1994. With members from the respective industries and government, the committee would be a valuable resource to the Commission in implementing the sports migration directives of Congress. It is also desirable to seek a collegial solution to this problem before even considering any form of government mandate.

### III. CONCLUSION

The City of New York respectfully urges the Commission to establish a Sports Programming Advisory Committee to analyze the causes and consequences of sports migration trends and to  
~~forward its recommendations. We believe an advisory committee~~

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